

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SECOND APPEALS Nos. 346,347,348 of 1980,
SECOND APPEAL No. 39 of 1981,
SECOND APPEAL No. 40 of 1981,
SECOND APPEAL No. 41 of 1981,
SECOND APPEALS Nos. 42,43,44 of 1981,
SECOND APPEALS Nos. 371,372,373,374,375 and
377 of 1980.

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

GULAM MOHAMED IBRAHIM

Appearance:

1. Second Appeal No. 346 of 1980
MS. KN VALIKAEIMWALA, AGP for Petitioners
NOTICE SERVED for Respondent No. 1, 2
2. Second AppealNo 347 of 1980
MS KN VALIKAEIWALA, AGP for Petitioners
MR RM VIN for Respondent No. 1
NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 24/04/98

COMMON ORAL JUDGEMENT

All these appeals involving common question of law are proposed to be disposed of by common judgment. The Assistant Government Pleader for the appellant was heard. Shri R.M. Vin, learned advocate appearing for the respondents in Second Appeals Nos.347/1980, 39/1981, 41/1981, 373/1980, 374/1980 and 375/1980, Mr. T.J. Patel, learned advocate appearing on behalf of Mr. Jitendra Patel, in Second Appeals Nos.40/1980, 42/1981, 43/1981; 372 of 1980 Shri D.N. Pandya, learned advocate appearing for respondent No.1 in Second Appeal No.372/1980 were also heard. In Second Appeal No.346 of 1980 notice is served upon the respondents Nos.1 and 2 but no counsel has been engaged by them. In Second Appeal No.348 of 1980, respondents Nos.2 to 4 are served; they are absent. In Second Appeal No.39 of 1981, respondents Nos. 2 and 3 are served but they are absent and unrepresented. In Second Appeal No.42 of 1981, respondent No.1 is served but he is absent and unrepresented. In Second Appeal No.371 of 1980, respondents Nos.1 and 2 are served but they are absent and unrepresented. The same is the case with the respondents Nos.2 to 5 in Second Appeal No.373 of 1980 and respondent No.2 of Second Appeal No.374 of 1980 as well as respondents Nos. 2 to 8 in Second Appeal No.375 of 1980. In Second Appeal No.377 of 1980, respondents are shown to be party in person, but, at the time of hearing of these appeals, they remained absent. As such Mr. R.M. Vin, Mr. T.J. Patel and Mr. D.N. Pandya, were heard from the side of the respondents.

2. The controversy involved in all these appeals stands finally concluded by a decision of this court in Second Appeal No.1191 of 1974 decided on 2nd February, 1978.

3. There is concurrent finding of the two courts below. In all these appeals the appellants remained unsuccessful in the two court's below. The questions of law formulated in these appeals in effect have been taken into consideration in the judgment of this court in Special Civil Application No.1191 of 1974 which was confirmed by the Apex Court in the case of Thakoresinghji Naharsinghji Dolatsinghji Vs. State of Gujarat and Others A.I.R.1980 S.C. 59. Consequently, there is no scope for reopening the similar controversy agitated by the appellants regarding applicability of the notification in question and, also regarding dispute

whether the survey settlement carried out during the period of erstwhile princely states be considered to be a survey settlement under the provisions of the Bombay Land Revenue Code. The State Government was not permitted to raise this question and the stand of the State Government was negative in the aforesaid Special Civil Application No.1191 of 1974 and the said verdict was confirmed by the Apex Court. Consequently, there is no need to enter the detailed discussion in answering substantial question formulated in the above Second Appeals. Since the matter is concluded by the judgment of this court which was duly confirmed by the verdict of the Apex Court, no substantial of law remain to be answered in these appeals. These appeals being devoid of merit are liable to be dismissed.

4. All the aforesaid appeals are accordingly dismissed. In the facts and circumstances of the case the parties shall bear their own costs.

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